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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/674,691

11/03/2000

Christofer Fuchs

CM1764Q/VB

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01/07/2004

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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EXAMINER

PIERCE, JEREMY R

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 01/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/674,691

Applicant(s)

FUCHS ET AL.

Examiner

Jeremy R. Pierce

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-17 is/are pending in the application.
- 4a) Of the above claim(s) 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s), _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on October 17, 2003 has been entered. Claims 1 and 14 have been amended. Claims 1-4 and 6-17 are currently pending, with claim 15 withdrawn from further consideration. The amendment is sufficient to withdraw to 112 rejections set forth in section 4 of the last Office Action. The Examiner also withdraws the 102/103 rejections set forth in section 7 of the last Office Action because the Examiner agrees with Applicant's argument that Weder does not disclose the connecting material is designed to fracture.

Claim Rejections - 35 USC § 102/103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-4, 6-14, 16, and 17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Delmar (U.S. Patent No. 3,785,406).

Delmar discloses an extendable plastic tube folded over itself and bonded, where a relatively low pulling force acts to rupture the bonds and extend the plastic material (column 1, lines 10-34). The bonds are created by heat-sealing the plastic (column 1, lines 35-40). Although Delmar does not explicitly teach the limitations of Relative Expansion Tension Reduction, Discontinuous Expansion Threshold, Discontinuous

Expansion Point, elongation at Tearing Point, and Contraction Force, it is reasonable to presume that said limitations are inherent to the invention of Delmar. Support for said presumption is found in the use of similar materials (i.e. film web material) and in the similar production steps (i.e. thermally bonding folds in the web material that are designed to fracture) used to produce the tube. The burden is upon the Applicant to prove otherwise. If not inherent, the claimed properties would still be obvious to provide for the following reasons. Regarding the property of Relative Expansion Tension Reduction, increasing said reduction would be a result effective variable induced by thermally bonding larger portions of the plastic. If the tube of Delmar were not specifically designed to meet the at least 90% reduction in tension, it would have been obvious to a person having ordinary skill in the art to use more thermal bonding at the connecting points in order to obtain a stronger bond and a greater drop in tension, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. Similar modification could be done to adjust the Discontinuous Expansion Threshold. With regard to the Discontinuous Expansion Point, the Examiner would argue that there exists little tension after the bonding point breaks, but before the sleeve is fully extended. With regard to claims 9-11, the first and second regions have no parameters other than the difference in basis weight. So one could define any first region of the tube of Delmar to be a different basis weight than any second region of the tube of Delmar. With regard to the Contraction Force, the Examiner argues that there would be insufficient Contraction Force in the tube of

Delmar, because the sleeve is not made of an elastic material. With regard to claims 14, 16, and 17, Delmar show a transverse z-fold that is thermally bonded (Figure 3).

Response to Arguments

4. Applicant's arguments filed October 17, 2003 have been fully considered but they are not persuasive.

5. Applicant argues that Delmar does not disclose using cohesive bonding, pressure bonding, friction bonding, autogenous bonding, mechanical fixation, or combinations thereof. However, heat-sealing the film would create an autogenous bond because the material of Delmar would be bonded onto itself.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (571) 272-1479. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-0994.

JRP

JRP

Elizabeth A. O'Leary
REGISTERED PATENT ATTORNEY
U.S. PATENT & TRADEMARK OFFICE